

LOCAL RULES OF PRACTICE AND PROCEDURE
OF

THE ALLEN SUPERIOR COURT – CIVIL DIVISION

Effective November 1, 2000

Including Amendments Received Through October 15, 2005

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FINAL PRE-TRIAL ORDER

Rule 1. Applicability and Citation of Rules

- (A) **Scope.** The following rules shall apply to cases filed on the plenary docket in the Allen Superior Court Civil Division, and shall not apply to cases in the Small Claims Division, the Family Relations Division, or the Criminal Division of the Allen Superior Court. Nothing in these rules shall limit the general jurisdiction of any judge of the Allen Superior Court Civil Division.
- (B) **Citation.** These rules may be cited as L.R. _____. The Indiana Rules of Trial Procedure are hereinafter referred to as T.R. _____.

Adopted September 8, 2000, effective November 1, 2000.

Rule 2. Service of Process

- (A) **Procedure for Service of Process**
- (1) *By Mail.* When service by certified mail is requested, the party shall not prepare envelopes, but shall furnish for each party to be served, the originals and three copies of prepared summons, complaints, notices or subpoenas to the Clerk, who shall prepare the envelopes using the addresses furnished. Proper postage and return receipt request card will be furnished by the Clerk. Upon receipt of the return, the Clerk shall insert the return with the pleadings in the packet.
- (2) *By Sheriff.* When Sheriff service is requested, the party shall furnish for each party to be served, the original and three copies of prepared summons, complaints, notices or subpoenas to the Clerk, who will forward the documents to the Sheriff for proper service.
- (B) **Summons and Complaint Served Together – Exceptions.** The summons and complaint shall be served as provided by the Trial Rule 4(E) except as may otherwise be provided by statute or other Trial Rule.

Adopted September 8, 2000, effective November 1, 2000.

Rule 3. Appearances

- (A) **Written Appearance Form.** An attorney entering an appearance on behalf of any party shall file a written appearance as provided in T.R. 3.1 and serve a copy on all parties of record.
- (B) **Filing Appearance.** Appearance shall be filed with the Clerk, who shall file-stamp the same and shall enter the attorney's name and the

date of such appearance on the chronological case summary. In addition, the Clerk shall note such attorney's name, address, or box number, and phone number on the chronological case summary. It shall be the duty of attorneys to see that their appearance is properly filed and entered.

- (C) **Party Appearing Without an Attorney.** When a party to an action appears without an attorney, the party shall give, and the Clerk shall note on the chronological case summary of the case, a name, a mailing address and phone number of the party to which notices and communications concerning the case may be delivered and mailed pursuant to T.R. 5 (B).
- (D) **Address Changes.** It shall be the duty of all attorneys who have entered their written appearance and of all parties who are not represented by an attorney, to notify the Court through the Clerk of any change of their mailing addresses and phone numbers. Such notification shall be in writing filed separately for each case to which the change applies and served upon other parties to each case or their attorneys of record.
- (E) **Proof of Mailing.** Certificates of service or proof of mailing of pleadings concerning any case shall be deemed sufficient proof of service if such pleadings were mailed to the last known address of a party or attorney noted upon the chronological case summary of a case.

Adopted September 8, 2000, effective November 1, 2000.

Rule 4. Withdrawal of Appearance

- (A) **Procedure for Withdrawal.** A request to withdraw an appearance shall be in writing and by leave of Court. Permission to withdraw shall be given only after the withdrawing attorney has given his client at least ten (10) days written notice of his intention to withdraw and has filed a copy of such notice with the Court; or upon a simultaneous or prior entering of appearance by counsel for said client. Once a case has been assigned to a judge, no motion to withdraw appearance shall be granted except by the judge to whom the case has been assigned.
- (B) **Contents of Notice.** Any notice of intention to withdraw shall include an explanation to the client as follows:
 - (1) the present status of the case.
 - (2) the date or dates of scheduled hearings and any other pending matters;
 - (3) advice that the provisions in Local Rule 3C and 3D apply to

- the client after withdrawal of counsel;
- (4) the expectation of the Indiana common law that, as an unrepresented party, the client will be held to the same standard of conduct as an attorney licensed to practice in the State of Indiana; and
 - (5) the prejudice which might result from failure of the client to act promptly or to secure new counsel.
 - (6) an attorney, in compliance of T.R. 3.1 (E), shall certify the last known address and telephone number of the party, subject to the confidentiality provisions of T.R. 3.1(A)(8) and (D).

Adopted September 8, 2000, effective November 1, 2000; amended and effective October 1, 2003.

Rule 5. Consent to Alternate Service

- (A) **Courthouse Boxes.** Any Allen County attorney or any Allen County law firm may, without charge, maintain an assigned Courthouse box in the library of the Allen County Courthouse for receipt of notices, pleadings, process, orders, or other communications from the Allen Superior Court, the Clerk, and other attorneys or law firms.
- (B) **How Assigned.** Such Courthouse boxes shall be assigned only after such attorney or law firm has filed with the Law Librarian at the Allen Superior Court a Consent to Alternate Service (Appendix A).
- (C) **Effect of Consent.** Deposits made in any assigned box of notices, pleadings, process, orders, or other communications made shall be deemed to constitute and be accepted as service equivalent to service by first class mail under Trial Rule 6(E).
- (D) **Form of Deposit to Box.** Any papers served under this rule by the Court, Clerk, or other attorneys or firm of attorney shall be placed in an envelope with the name of the intended receiving attorney on it and the current box number on the outside thereof.
- (E) **Revocation of Consent.** Consent to Alternate Service under this rule shall remain valid until a written revocation has been filed with the Law Librarian of the Allen Superior Court.
- (F) **Index.** An index of those attorneys and firms consenting to alternate service shall be located near the boxes. The Law Librarian of the Allen Superior Court shall be responsible for assigning boxes and maintaining a file of consents and of revocations of consents to alternate service.

Adopted September 8, 2000, effective November 1, 2000.

Rule 6. Preparation of Pleadings

All pleadings shall be in accordance with the provisions of the Indiana Rules of Trial Procedure. For the purpose of uniformity and convenience, the following requirements shall also be observed:

- (A) **Form.** Such pleadings must be printed on white paper. The lines shall be double spaced except for quotations, which shall be indented and single-spaced. Handwritten pleadings may be accepted for filing in the discretion of the Court. Photocopies are acceptable if legible.
- (B) **Margins and Binding.** Margins shall be 1-1 ½ inches on the left side and ½ inch on the right. Binding or stapling shall be at the top left and at no other place. Covers or backing shall not be used.
- (C) **Signature.** All pleadings to be signed by an attorney shall contain the written signature of the individual attorney, the attorney's printed name, Supreme Court Attorney Number, the name of the attorney's law firm, the attorney's address, telephone number, and a designation of the party for whom the attorney appears.

The following is recommended:

John Doe, #284-703
Doe, Rowe and Smith
2222 Blackburn Building
Fort Wayne, Indiana 46802
(260) 555-1212
Attorney for Defendant

Neither printed signatures, nor facsimile signatures shall be accepted on original documents. Facsimile signatures are permitted on copies.

Adopted September 8, 2000, effective November 1, 2000.

Rule 7. Filing

- (A) **Flat Filing.** The files of the Clerk of the Court shall be kept under the "flat filing" system. All pleadings presented for filing with the Clerk or Court shall be flat and unfolded. Only the original of any pleading shall be placed in the Court file.
- (B) **Filing Pleadings, File-Stamped Copies.** A copy of any pleading required to be served under Trial Rule 5 upon counsel of record or the adverse party shall be file-stamped.

Adopted September 8, 2000, effective November 1, 2000.

Rule 8. Default Judgments

- (A) **Written Instruments.** Where a case is based on a written negotiable instrument, the original of the instrument must be produced for cancellation when obtaining judgment thereon. If the only instrument produced is a photocopy including the photocopy of the signature of the defendant, an affidavit by plaintiff that the original of such instrument cannot be found or produced shall be filed before judgment will be issued thereon.
- (B) **Application for Judgment.** Where an appearance has been entered for a party, the party entitled to a judgment shall file an "Application for Judgment" pursuant to Trial Rule 55(B). The movant will set the application for hearing and give notice of such application and hearing on the party's attorney who is in default.
- (C) **Affidavit of Non-Military Service.** No default judgment shall be entered unless there has been filed an affidavit or other evidence, satisfactory to the Court, of non-military service.

Adopted September 8, 2000, effective November 1, 2000.

Rule 9. Motions

- (A) **Setting Motions for Hearing.** Except for the motions described in L.R. 9E below, all motions shall be set for hearing at the time of their filing. It shall be the responsibility of the moving party to secure the date of such hearing from the Judicial Assistant/Duty Clerk, or if the case has already been assigned to a Judge, from the Judicial Law Clerk of the assigned Judge.
- (B) **Motions to Correct Error.** It shall be discretionary with the Judge before whom the case is pending whether a hearing shall be held on a motion to correct error.
- (C) **Motions to Tax Costs.** All motions to tax costs must be made in writing specifically setting forth the reasons therefore and the proposed mode of taxation. All such motions shall be set for hearing, with notice to the adverse party, as prescribed in 9.A. above.
- (D) **Motions to Amend Pleadings.** All motions to amend pleadings shall contain a written representation of the moving party's attorney that said attorney advised opposing counsel of the substance of the

motion and that opposing counsel either consents or objects to the motion or that the motion may be submitted for ruling by the Court without hearing or briefing. Upon being advised of opposing counsel's objection, the moving party's attorney shall set the motion for hearing, as prescribed in 9.A. above.

(E) **Motions Not Likely to Require Hearing.** At the time of filing, the following motions, along with the court packet, shall be brought to the attention of the Judicial Assistant of the Civil Division.

- (1) Motion for Enlargement of Time
- (2) Motion to Dismiss complaint by Plaintiff when no answer has been filed
- (3) Motion to Dismiss Counterclaim by Defendant when no reply has been filed
- (4) Motion to amend any pleading

Such motions shall be summarily granted or denied *ex parte* unless the assigned Judge, determines that a hearing should be scheduled.

(F) **Briefs and Memoranda Regarding Motions.** If a party desires to file a brief or memorandum in support of any motion, such brief or memorandum shall be filed simultaneously with the motion, and a copy shall be promptly served upon the adverse party.

(G) **Motions to Strike or to Insert New Matter.** Subject to Trial Rule 12(F), every motion to insert new matter or to strike out any part or parts of any pleading, deposition, report, order or other document in a case shall be made in writing and shall set forth the words sought to be inserted or stricken. Each set of words to be inserted or stricken shall be in a separate specification and each specification shall be numbered consecutively.

(H) **Motions to Reconsider Rulings.** A motion to reconsider a ruling of the Court on any pleading or motion must be in writing and must be served personally upon the ruling Judge. If a motion to reconsider is set for hearing by the Judicial Assistant/Duty Clerk or by the Judicial Law Clerk of the assigned Judge, the five (5) day automatic denial time period contained in T.R. 53.4 shall not apply.

(I) **Discovery Dispute Motions.** The Court expects complete compliance with T.R. 26(F).

(J) **Responsibility for Notice.** It shall be the responsibility of the moving party to give notice to all other parties of hearings scheduled on motions.

Adopted September 8, 2000, effective November 1, 2000; amended and effective October 1, 2003.

Rule 10. Proposed Orders

(A) **Matters in which Proposed Orders Required.** Prior to entry by the Court of orders granting motions or applications, the moving party or applicant (or his or her attorney) shall, unless the Court directs otherwise, furnish the Court with proposed orders in the following matters:

- (1) for enlargement of time
- (2) for continuance
- (3) for default judgment
- (4) to compel discovery
- (5) of dismissal
- (6) for appointment of receiver
- (7) for appointment of guardian
- (8) for restraining order, temporary, or permanent injunction
- (9) for immediate possession of real estate
- (10) for immediate possession of personal property
- (11) for findings of fact and conclusions of law
- (12) for petition for certification of interlocutory appeals
- (13) for staying further proceedings by reason of bankruptcy, appeal, or other cognizable grounds
- (14) such other orders, judgments, or decrees as the Court may direct

This rule does not apply to judgments on general verdicts of the jury or upon a decision announced by the Court.

(B) **Form.** Any proposed order shall be a document that is separate and apart from the motion or application to which it relates and shall contain a caption showing the name of the court, the case number assigned to the case and the title of the case as shown by the complaint. If there are multiple parties, the title may be shortened to include only the first name plaintiff and defendant with appropriate indication that there are additional parties. The proposed order shall be on white paper, 8 ½" x 11" in size, and each page shall be numbered. On the last page of the proposed order there shall be a line for the signature of the judge under which shall be typed "Judge, Allen Superior Court", to the left of which shall be the following: "Dated ____". To allow space for the Clerk to make entries on the proposed order to show compliance with the notice requirements of TR 72(D), the lower 4 inches of the last page of the proposed order

shall be left blank. The proposed order shall also include a prepared proof of notice, under T.R. 72(D). The proof of notice shall conform to the following format:

NOTICE IS TO BE GIVEN BY:

___COURT ___ CLERK ___PARTY ___OTHER

PROOF OF NOTICE UNDER TRIAL RULE 72 (D)

A copy of this entry was served either by mail to the address of record, deposited in the Court's attorney's distribution box, distributed personally upon the persons and/or filed as listed below:

Insert Name and address or court's attorney distribution box number, of all Pro Se Parties and Attorneys of Record.

Court Packet – 2

DATE OF NOTICE:_____

INITIALS OF PERSON WHO

NOTIFIED PARTIES:

___COURT ___ CLERK ___PARTY ___OTHER

NOTE: When a party provides notice under this section said party shall complete all portions of the prepared proof of notice.

(C) **Copies.** All proposed orders shall be submitted in an original plus a number of copies equal to one more than the number of pro se parties and attorneys of record contained in the prepared proof of notice under T.R. 72 (D) required above.

(D) **Proposed Orders on Motions for Summary Judgment.** Proposed orders on motions for summary judgment may contain the language called for in T.R. 56 (C) that there is not just reason for delay and directs entry of final judgment as to less than all the issues, claims or parties.

Adopted September 8, 2000, effective November 1, 2000.

Rule 11. Failure to Rule –Informal Procedure

In the event a Judge fails to set a motion or hearing or fails to rule on a motion within the time period specified in Trial Rule 53.1(A), and if no action has been taken as provided in Trial Rule 53.1(D) or (E), an interested party may seek that an informal resolution be attempted as to such Judge's failure through *ex parte* request made to the Administrative Judge of the Civil Division or the Court Executive of the Allen Superior Court.

Adopted September 8, 2000, effective November 1, 2000.

Rule 12. Continuances

- (A) **Motion.** Motion for continuance, unless made during trial, shall be in writing, state with particularity the grounds and be verified, with copies of such requests served upon opposing counsel unless the Court directs otherwise.
- (B) **Party to Suit Signing Requirement.** The Court, in its discretion, may require any written motion or stipulation for continuance to be signed by the party requesting the continuance in addition to signature of attorney so moving.
- (C) **By Stipulation of Counsel.** Stipulation to continue the hearing of any pending matter shall state with particularity the grounds for the continuance and be signed by all attorneys of record.
- (D) **Time for Filing.** Motions or Stipulations for Continuance shall be filed as soon after the cause for continuance or delay is discovered by the party seeking same, and no later than seven (7) days before date set, unless the reason therefor is shown by affidavit to have occurred within said seven (7) day period.
- (E) **Court's Discretion.** The Court in its discretion may grant or deny a motion or stipulation for continuance.
- (F) **Rescheduling.** All matters continued shall be rescheduled to an open date and time on the Court's calendar when all attorneys will be available.

Adopted September 8, 2000, effective November 1, 2000.

Rule 13. Assignment of Cases to Judges

- (A) The Administrative Judge of the Civil Division shall assign case types within the Division on an annual basis pursuant to I.C. § 33-5-5.1-23.
- (B) In addition to the assignments under L.R. 13(A), the Administrative Judge or his/her designee may assign cases to a particular Judge upon filing. After a case has been assigned to a particular Judge, all matters pertaining to that case shall be heard and determined by the assigned Judge.
- (C) At the time of filing, the Administrative Judge may also set a Scheduling Conference. Notice of the Scheduling Conference will be included with the pleading served with the summons in the case.
- (D) **Unassigned Cases.** Prior to assignment of the case to a particular Judge, any matter in the case may be scheduled for hearing or disposition before any of the Judges of the Civil Division.

Adopted September 8, 2000, effective November 1, 2000.

Rule 14. Admissions, Stipulations and Agreements

Admissions, stipulations and agreements concerning the proceedings in a case will not be enforced, unless submitted in writing or made of record.

Adopted September 8, 2000, effective November 1, 2000.

Rule 15. Retrieval/Destruction of Exhibits

After a case is decided and no appeal is timely taken, or after the applicable retention period under State Law, the court reporter may give notice in writing to the party or party's attorney who introduced an exhibit at trial specifying a time within which the exhibit must be removed from the custody of the court reporter. If the party or attorney does not retrieve the exhibit within the time indicated, the reporter may dispose of same and the party shall be charged with any expenses of disposition.

Adopted September 8, 2000, effective November 1, 2000.

Rule 16. Attorney's Fees

(a) No order granting a request for attorney fees shall be made unless such fees are allowable under applicable law and there has been evidence furnished by testimony of an attorney, or by affidavit of an attorney. Such testimony or affidavit shall describe the services rendered in order to establish to the Court's satisfaction the amount of time expended (or to be expended in the matter), the fact that such services and time were or are reasonably necessary considering the nature and complexity of the matter, the experience or expertise of the attorney seeking an attorney fee award, the usual and customary charges, and the reasonableness of the fees sought.

Judicial notice of reasonable fees shall not be taken. In any event, the award of attorney fees shall be within the sound discretion of the Court.

Adopted September 8, 2000, effective November 1, 2000.

Rule 17. Proceedings Supplemental

- (A) **Ten-Day Rule.** Except for good cause shown, a motion for proceedings supplemental may not be filed until ten (10) calendar days have elapsed since the date of judgment.
- (B) **One-Year Rule.** Except upon good cause shown, no proceedings supplemental may pend for more than one (1) year period from the date of its filing. At the end of said one (1) year period, said proceedings supplemental shall be dismissed. Except upon good cause shown, no judgment creditor may file more than four (4) proceedings supplemental per year against any individual judgment debtor in a given case.
- (C) **Bank Interrogatories.** Except by order of the Court for good cause shown, judgment creditors may not submit garnishment interrogatories to more than two (2) banking institutions for each hearing on proceedings supplemental.
- (D) **Conduct of Hearings.** Unless the judgment creditor is represented by an attorney at the proceedings supplemental hearing, said hearing shall be conducted by an officer of the Court.
- (E) **Completion of Interview Forms.** At each proceedings supplemental hearing, the attorney or the Court's officer conducting the hearing shall complete and file with the Court a proceedings supplemental interview form provided by the Court based on the

judgment debtor's testimony at said hearing. At its completion and prior to its filing, the judgment debtor shall be given the opportunity to review and sign said form in acknowledgement of its accuracy.

(F) **Proceedings Supplemental During Pendency of Garnishment Order.** If a garnishment order has been issued and remains unsatisfied, additional proceedings supplemental directed to the judgment debtor or to an additional garnishee defendant may be filed only by order of the Court for good cause shown.

(G) **Default on Proceedings Supplemental.** The Court shall permit each party a thirty (30) minute grace period to appear for any proceedings supplemental hearing. After the thirty (30) minute grace period has elapsed:

- (1) if the judgment debtor has failed to appear, a judgment creditor who appears shall be entitled to apply for appropriate proceedings supplemental sanctions; or
- (2) if the judgment debtor has appeared within the grace period and the judgment creditor or his attorney fails to appear or to commence to conduct the proceedings supplemental interview, the judgment debtor may leave without risk of sanction for failure to appear.

However, a judgment creditor's failure to conduct the proceedings supplemental interview within the grace period shall not bar the judgment creditor from filing a garnishment order against the judgment debtor's wages if appropriate under Local Rule 20.

Adopted September 8, 2000, effective November 1, 2000.

Rule 18. Court Orders to Appear

(A) **General Use.** Judgment creditors may request the Court to issue an order to appear (COTA) to judgment debtor(s) only when:

- (1) an active proceedings supplemental is pending against the judgment debtor;
- (2) the hearing date set for the COTA is within sixty (60) days of the date on which the COTA is issued; and
- (3) good cause exists for the COTA and is shown on the record at the time the COTA is requested.

(B) **Good Cause.** "Good cause" under Local Rule 18A(3) shall include but not be limited to cases in which:

- (1) the judgment debtor fails to produce documents as previously ordered by the Court;

- (2) the judgment debtor indicates intended relocation with new address presently unknown;
- (3) there is a reasonable certainty that the judgment debtor's financial status will substantially change within sixty (60) days.
- (C) **COTA's and Garnishment Orders.** When a garnishment order has been issued, no pending COTA will be enforced, and no COTA will issue to the judgment debtor, except by order of the Court for good cause shown.
- (D) **Failure to Appear on COTA.** Upon a judgment debtor's failure to appear on the date and time set by the COTA, the judgment creditor may file contempt proceedings under Local Rule 19.
- (E) **Agreements to Appear Without COTA.** In any proceedings supplemental, the parties may agree to reset a hearing without use of a COTA. If after such agreement either party fails to appear at the reset hearing, the underlying proceedings supplemental shall be dismissed and no sanctions shall be available for such failure to appear.

Adopted September 8, 2000, effective November 1, 2000.

Rule 19. Contempt/Rule to Show Cause/Body Attachment

- (A) **Contempt.** Upon failure of a judgment, debtor or garnishee defendant to appear as ordered for a scheduled hearing, the judgment creditor may file a contempt citation as to said person. Said contempt citation must be filed within thirty (30) days of the failure to appear.
- B. **Body Attachment.** Body attachment shall be requested and issued only when:
 - (1) The judgment debtor or garnishee defendant previously ordered to appear for a scheduled hearing was personally served with notice of a contempt hearing;
 - (2) The request for body attachment is filed within thirty (30) days of the contempt hearing at issue; and
 - (3) The judgment creditor properly completes and files all pleadings and forms from time to time required by the Court. Said pleadings and forms currently include for each judgment debtor:
 - (a) one (1) Request for Body Attachment;

- (b) at least three (3) Writs of Attachment which must include a statement setting a bond for release; (The bond amount should be set at the lesser of \$500.00 or the total amount remaining unpaid on the judgment including costs and interest.)
- (c) and the Warrant Information Card, including the judgment debtor's social security number or date of birth.

(C) **Procedure for Contacting Judgment Creditor When Attached Person is in Custody.** When the judgment creditor under Local Rule 19 requests the issuance of a body attachment, and as needed at any time thereafter, said creditor shall file with the Court any telephone numbers (not to exceed three (3)) at which the Court may notify the creditor of the attached person's appearance in custody. Upon such appearance in custody, the Court, to the best of its ability and consistent with the continued performance of its daily responsibilities shall:

- (1) attempt to contact the creditor at the telephone numbers on file with the Court; and
- (2) thereby notify the creditor of a time later during the same Court business day at which the attached person will be brought before the Court for questioning by said creditor.

If the Court is unable to contact the judgment creditor as set forth above after attempting to do so for a period of two (2) hours, the attached person shall be released and the underlying proceedings supplemental dismissed.

(D) **Expiration and Recall of Body Attachments.**

- (1) *Expiration.* Body Attachments expire one year after issuance.
- (2) *Recall.* If during the pendency of a Body Attachment, the judgment creditor desires to recall said body attachment, said judgment creditor shall;
 - (a) appear personally or by attorney and move on the record for recall of the Body Attachment; and
 - (b) state on the record the reason for the desired recall.

Upon the recall of a Body Attachment, the underlying proceedings supplemental shall be dismissed.

Adopted September 8, 2000, effective November 1, 2000.

Rule 20. Garnishment

- (A) **General Procedure.** A garnishment order shall not issue with respect to a judgment debtor's wage or other property without:
- (1) An active proceedings supplemental as to the judgment debtor or waiver of notice by said judgment debtor;
 - (2) Service on the garnishee defendant of the proceedings supplemental by
 - (a) certified mail,
 - (b) Sheriff's service, or
 - (c) private process server; and
 - (3) return of answered interrogatories, other verification of employment by the garnishee defendant, or failure to answer interrogatories after notice.
- (B) **Voluntary Garnishments.** In instances where a judgment debtor has entered a voluntary agreement for periodic payments to satisfy the judgment and has further consented to garnishment upon default, notwithstanding the terms of the agreement, no garnishment order shall issue unless:
- (1) an active proceeding supplemental is pending against the judgment debtor and the garnishee defendant;
 - (2) the judgment debtor's employment by said garnishee defendant has been verified as set forth in Local Rule 20 (A) on the record within three (3) months prior to the date on which judgment creditor requests issuance of the garnishment order; and
 - (3) the judgment creditor represents on the record the default of judgment debtor.
- (C) **Stay.** In instances where a judgment creditor has stayed a garnishment order which has been issued and served on a garnisheed defendant, said judgment creditor shall lose any priority over pending, but later issued, garnishment orders pertaining to the judgment debtor's wages.
- (D) **Release.** Upon receipt by the judgment creditor or by the Clerk on the judgment creditor's behalf of monies sufficient to fully satisfy the judgment, any accrued interest and costs, the judgment creditor shall immediately obtain a court order releasing the applicable garnishment order and shall forward a copy to the garnishee defendant(s).

Adopted September 8, 2000, effective November 1, 2000.

Rule 21. Authority of Attorneys' Employees

- (A) **In General.** Generally, attorneys' employees who have not been admitted to practice law in Indiana but who assist their employers in Courthouse activities (herein called "legal assistants"), shall be limited to the performance of tasks which do not require the exercise of legal discretion or judgment that affects the legal rights of any person.
- (B) **Trust Account Deposits.** Only one legal assistant per law firm shall have the authority to obtain trust account deposits at the Allen County Clerk's Office in the name of his or her employer firm. The employer law firm shall submit a letter to the Clerk of the Allen Circuit and Superior Courts (See Appendix "B" to these rules) stating that:
 - (1) Such employee is authorized to obtain trust account deposits at the Allen County Clerk's Office in the name of his employer; and
 - (2) Such employer fully releases the Clerk of the Allen Circuit and Superior Courts and all employees of said Clerk of any liability for paying any such funds by check, naming said employer as payee, to any such designated employee, unless such law office has previously notified in writing the Clerk of the Allen Circuit and Superior Courts that such employee's authority to act on behalf of said law office has been terminated.
- (C) **Legal Documents.** All pleadings which the legal assistant presents or files at the Courthouse must contain an attorney's signature, as the attorney for a party, or a statement affixed indicating that the documents were prepared by said attorney.
- (D) **Permitted Acts.** Such an employee shall be limited to the following acts:
 - (1) To file, and obtain orders on all motions described in Local Rule 10(A).
 - (2) To set Pre-Trial Conferences and all other hearing dates except trials.
 - (3) To examine pleadings and chronological case summary sheets and make copies thereof within the Courthouse.
 - (4) At the discretion of the Court, to obtain approval of orders of the Court from the Judge's Law Clerk for:
 - (a) Notice of hearings.
 - (b) Orders to appear and answer interrogatories on the

filing of the Verified Motion for Proceedings Supplemental.

(c) Stipulations signed and approved by all parties of record.

(d) Motions to Withdraw Appearance.

(E) **Acts Not Permitted.** Such employee shall not have the authority to perform any acts not specified in Paragraph D of this rule.

(F) **Termination of Authority.** Each employer law firm shall be responsible for notifying in writing the Clerk of the Allen Circuit and Allen Superior Court, and the Allen Superior Court Executive of the termination or revocation of any legal assistant's authority to act on behalf of said law office as covered by this rule.

Adopted September 8, 2000, effective November 1, 2000.

Rule 22. Conflicts

The Indiana Rules of Trial Procedure shall govern in the event of any conflict with the Local Rules of the Allen Superior Court, Civil Division.

Adopted September 8, 2000, effective November 1, 2000.

APPENDIX A

CONSENT TO ALTERNATE SERVICE

The undersigned, as an individual practitioner or for and on behalf of the law firm below, hereby consents to service of any notice, pleading, process, order or other communication by deposit of the same in an assigned Courthouse box by:

- (a) Allen Superior Court;
- (b) Clerk, as to matter with Allen Superior Court;
- (c) Other Attorneys and law firms.

“Deposit” pursuant to this Consent shall constitute and be accepted as 1st class mail under Trial Rule 6(E). Any papers served under this Consent shall be placed in an envelope with the name of receiving attorney and current box number on the outside thereof. The Consent shall remain valid until revoked in writing. The Consent or revocation will be effective upon filing with the Law Librarian of Allen Superior Court.

This Consent shall also apply to any attorneys who become associates with the undersigned law firm after the date of this consent.

The undersigned agree(s) to notify the Allen Superior Court Executive promptly of any changes in the list of attorneys designated in the Consent.

DATED: _____

(Individual Practitioner)

(Firm Name)

By: _____

Managing or Senior Partner

List of Attorneys in Law Firm Hereby Consenting:

(File with the Law Librarian of the Allen Superior Court in Allen County Courthouse.)

Adopted September 8, 2000, effective November 1, 2000.

APPENDIX B

**RELEASE OF CLERK FOR PAYMENT OF TRUST ACCOUNT DEPOSITS
TO THE CLERK OF THE ALLEN COUNTY SUPERIOR AND CIRCUIT
COURTS**

Please be advised that _____, an employee of our law firm, is authorized to obtain trust account deposits at the Allen County Clerk's office in the name of his/her employer. The law firm fully releases the Clerk of the Allen Superior and Circuit Court and all employees, of said Clerk for paying any such funds by check, naming said employer as payee to above named employee, unless we have previously notified you in writing that such employee's authority to act on behalf of our law office has been terminated.

Law Firm Of: _____

By: _____
Attorney Name and #

STATE OF INDIANA, COUNTY OF ALLEN, SS:

Subscribed and sworn to before me, a Notary Public in and for said County and State,

this _____ day of _____, 20 ____.

My Commission Expires: _____

Notary Public

Adopted September 8, 2000, effective November 1, 2000.

APPENDIX C

FINAL PRE-TRIAL ORDER

STATE OF INDIANA)

IN THE ALLEN SUPERIOR COURT

)

)

COUNTY OF ALLEN)

SS:

CASE NUMBER:

)

PLAINTIFF _____)

)

vs.)

FINAL
PRE-TRIAL ORDER

)

)

)

)

DEFENDANT _____)

The parties submit this FINAL PRE-TRIAL ORDER:

- A. Jurisdiction.
- B. Status of the Record.
- C. Motions.
- D. Discovery.
- E. Contested Issues.
- F. Stipulations. (e.g. facts, liability, damages, admissibility of dispositions, capacity of parties.)
- G. Contentions of the Plaintiff(s).
- H. Contentions of the Defendant(s).
- I. Exhibits.
 - (1) Plaintiff(s) exhibits may include any or all of the following: (which have been numbered and submitted to Defendant(s) for examination):
 - (2) Defendant(s) exhibits may include any or all of the following: (which have been lettered and submitted to Plaintiff(s) for examination):
 - (3) The authenticity of all exhibits has been stipulated except the following:
 - (4) The relevancy and materiality of all exhibits has been stipulated except for the following:
- J. Witnesses.

- (1) The names, addresses and telephone numbers of Plaintiff(s) witnesses are as follows:
- (2) The names, addresses and telephone numbers of Defendant(s) witnesses are as follows:

K. **Order.**

- (1) Reasonable opportunity has been afforded counsel for corrections or additions prior to approval and signing by the Court. Subject to any corrections and additions that may be made as a result of the Status Conference with the Court, this Pre-Trial Order when filed with and approved by the Court before the commencement of the trial, shall control the course of the trial and may not be amended except by order of Court to prevent manifest injustice. All pleadings shall be deemed to be merged herein.

L. **Settlement.**

The parties have discussed settlement and are prepared to discuss the status of settlement negotiations with the Court.

M. **Trial.**

The trial will be to (Court) a (Jury). Length of the trial is ____ day(s). The Court has set the trial for _____.

Plaintiff(s)

By: _____

Defendant(s)

By: _____

Approved and made an Order of the Court, dated: _____

Judge, Allen Superior Court

Adopted September 8, 2000, effective November 1, 2000.